

REMARKS

Applicant thanks the Examiner for the thorough review of the claims in this application. Claims 10, 11, 39-43, 48 and 124-130 were allowed by the Examiner in the Official Action dated January 12, 2005. Applicant amended claims 10, 11, 39, 41, 42, 48, 124, 126, and 128-130 in a Response filed on July 12, 2005. Amendments to claims 11, 39, 41, 42, 48, 124, 126, and 128-130 in the July, 2005 Response generally corrected dependency and/or involved grammatical alterations that more distinctly defined the invention. Claim 10 was amended to more distinctly recite a gas flow feature recited in the allowed claim (as noted previously no new subject matter was added). No allowed claim was amended to modify the heater embodiments subject to the present restriction requirement. New claims 135-180 all directly or indirectly depend from allowed claim 10 and, if a heater embodiment was recited in a particular new claim, it was in the context of a heater embodiment already searched and examined in the Official Action of January 12, 2005.

Applicant respectfully submits: (1) the Examiner allowed claims 10, 11, 39-43, 48 and 124-130 in January of 2005 and the Response filed by Applicant in July of 2005 was tailored to put the case in condition for allowance; (2) no amendments to these allowed claims changed the nature of the heater elements already searched and considered by the Examiner; and (3) no new claim includes a heater embodiment not already searched and considered by the Examiner. Further, all new claims are dependent off generic claim 10, an allowed claim. In light of these considerations, Applicant believes that examination of all the pending claims would not be overly burdensome to the Examiner and should be considered generic in nature.

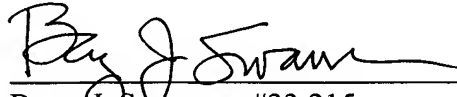
If the Examiner still considers the restriction proper in light of the Applicants remarks, Applicant would note that claim 169 (species III), drawn to a thermal heater, be considered a generic claim (along with claims 10-11, 48, 135-155, 170-173 and 177). The limitation within claim 169 "physiologically active compound is deposited onto a thermally conductive substrate that is heated by transmitting a thermal energy gradient from one part of said substrate to other parts" is not based on a particular heater embodiment, i.e. is generic in nature.

For the foregoing reasons, Applicant therefore submits restriction among Groups I-IV is improper and respectfully request examination of claims 10, 11, 39-43, 48, 124-130 and 135-

180.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefor to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to deposit account No. 19-5117. A Petition for a three-month time extension accompanies this response.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barry J. Swanson", written over a horizontal line.

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